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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,816	02/03/2004	Sang Yoon Lee	021269-009	9533
21839	7590	03/16/2005	EXAMINER	
BURNS DOANE SWECKER & MATHIS L L P			NADAV, ORI	
POST OFFICE BOX 1404			ART UNIT	
ALEXANDRIA, VA 22313-1404			PAPER NUMBER	
			2811	

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/769,816

Applicant(s)

LEE ET AL.

Examiner

ori nadav

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4,5 and 13-20 is/are allowed.
- 6) ☒ Claim(s) 3 and 6-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly et al. (6,617,609) in view of Dimitrakopoulos et al. (5,981,970).

Kelly et al. teach (see column 2, line 65 to column 4, line 67) an organic thin film transistor, comprising a gate electrode, a gate insulating film, an organic active layer and a source/drain electrode, or a gate electrode, a gate insulating film, a source/drain electrode and an organic active layer, sequentially formed on a substrate,

wherein the gate insulating film is a multi-layered insulator comprising a first layer of a high k material of dielectric constant of 5 or higher and a second layer of an insulating organic polymer compatible with organic active layer (column 3, lines 64-67).

Kelly et al. do not state that the second layer is positioned directly under the organic active layer, and the k high material for first insulating layer is mixture of an insulating organic polymer and an organic metal compound, or mixture of insulating organic polymer and nanoparticles inorganic metal oxide or a ferroelectric insulator.

Dimitrakopoulos et al. teach in figure 6 a layer of gate insulating material positioned directly under the organic active layer, wherein the k high material for first insulating

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layer is mixture of an insulating organic polymer and an organic metal compound, or mixture of insulating organic polymer and nanoparticles inorganic metal oxide or a ferroelectric insulator.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to position the second layer directly under the organic active layer, and to use the high k material for first insulating layer as a mixture of an insulating organic polymer and an organic metal compound, or mixture of insulating organic polymer and nanoparticles inorganic metal oxide or a ferroelectric insulator, in Kelly et al.'s device in order to operate the device in a conventional method wherein the gate insulating layer is positioned directly under the active layer, and in order to improve the dielectric properties of the device, respectively.

Regarding the process limitations recited in claims 3 7, and 12 ("sequentially formed on a substrate", "the first and the second layers of the gate insulating film are formed a wet process" and "the wet process is carried out by a spin coating, a dip coating, a printing, or a roll coating method"), these would not carry patentable weight in this claim drawn to a structure, because distinct structure is not necessarily produced.

Note that a "product by process" claim is directed to the product per se, no matter how actually made, *In re Hirao*, 190 USPQ 15 at 17 (footnote 3). See also *In re Brown*, 173 USPQ 685; *In re Luck*, 177 USPQ 523; *In re Fessmann*, 180 USPQ 324; *In re Avery*, 186 USPQ 161; *In re Wertheim*, 191 USPQ 90 (209 USPQ 554 does not deal with this issue); and *In re Marosi et al.*, 218 USPQ 289, all of which make it clear that it is the

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patentability of the final product per se which must be determined in a "product by process" claim, and not the patentability of the process, and that an old or obvious product produced by a new method is not patentable as a product, whether claimed in "product by process" claims or not. Note that the applicant has the burden of proof in such cases, as the above case law makes clear.

Regarding claims 6 and 11, Kelly et al. teach a substrate being plastic, glass, quartz, or silicon substrate, wherein the organic active layer is made of any one selected from the group consisting of pentacene, copper, phthalocyanine, polythiophene, polyaniline, polyacetylene, polypyrrole, polyphenylene vinylene, and derivatives thereof.

Allowable Subject Matter

Claims 4-5 and 13-20 are allowable.

Response to Arguments

Applicant argues that Dimitrakopoulos et al. do not teach or suggest an organic metal compound for use in a first insulating layer, because Dimitrakopoulos et al. discloses depositing a BST layer (an inorganic material) from a sol gel solution of Ba, Sr, and Ti organometallic precursors (Column 7, lines 48-50), which is quite different from incorporating an organic metal compound into the first insulating layer.

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It is unclear how the insulating organic compound of Dimitrakopoulos et al. which contains metallic particles, is different from the claimed insulating organic metal compound.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Papers related to this application may be submitted to Technology center (TC) 2800 by facsimile transmission. Papers should be faxed to TC 2800 via the TC

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2800 Fax center located in Crystal Plaza 4, room 4-C23. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Group 2811 Fax Center number is (703) 308-7722 and 308-7724. The Group 2811 Fax Center is to be used only for papers related to Group 2811 applications.

Any inquiry concerning this communication or any earlier communication from the Examiner should be directed to *Examiner Nadav* whose telephone number is **(571) 272-1660**. The Examiner is in the Office generally between the hours of 7 AM to 4 PM (Eastern Standard Time) Monday through Friday.

Any inquiry of a general nature or relating to the status of this application should be directed to the **Technology Center Receptionists** whose telephone number is **308-0956**

A handwritten signature in black ink, appearing to read 'Ori Nadav', is positioned above the printed name and title.

O.N.
3/9/05

ORI NADAV
PRIMARY EXAMINER
TECHNOLOGY CENTER 2800